



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,447	04/28/2000	Steve A. DeLuca	MFCP.70155	3196

7590 01/02/2003

Mauricio A Uribe
Shook Hardy & Bacon LLP
One Kansas City Place
1200 Main Street
Kansas City, MO 64105-2118

EXAMINER

WINTERS, MAREISHA N

ART UNIT PAPER NUMBER

2153

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,447

Applicant(s)

DELUCA, STEVE A.

Examiner

Mareisha N. Winters

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Claims 1-18 have been presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,339,750 to Hoyer et al. in view of U.S. Patent No. 5,951,644 to Creemer.

In reference to claims 1 and 8, Hoyer et al. discloses a method and computer executable instructions, for collecting capacity planning data at a central collection location, comprising:

collecting client management data (see column 10, lines 53-55); and

storing the client management data in a cache for a selected time interval (see column 6, lines 62-67 and column 7, lines 1-2).

However, Hoyer et al. fails to disclose:

averaging the client management data over the selected time interval; and

transmitting the averaged data to the central collection location.

Nonetheless these, these features are well known in the art and would have been an obvious modification to the method and computer-executable instructions disclosed by Hoyer et al., as evidenced by Creemer.

In an analogous art, Creemer discloses a method and computer-executable instructions for monitoring network resource utilization (see column 2, line 36), comprising:

Art Unit: 2153

averaging the client management data over the selected time interval (see column 5, lines 59-61); and

transmitting the averaged data to the central collection location (see column 3, lines 2-3;

Note that the mail server is the central collection location.).

Given the teaching of Creemer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Hoyer et al. by employing the well known or conventional features of averaging data over a time interval and transmitting the data to a central location, such as disclosed by Creemer, in order to obtain a prediction as to future performance of the system.

In reference to claim 2, Hoyer et al. discloses that the client management data is collected at the client machine (see column 6, lines 62-67 and column 7, lines 1-2).

In reference to claim 3, Hoyer et al. fails to disclose that the collecting step includes collecting client management data for a plurality of clients. Nonetheless this is a well known feature in the art and would have been an obvious modification to the system disclosed by Hoyer et al. in view of Creemer.

In an analogous art, Creemer discloses collecting client data from plurality of clients (see column 2, lines 34-35; Note that resources are the plurality of clients.). Given the teaching of Creemer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Hoyer et al. by employing the well known or conventional features of a plurality of monitoring a plurality of clients in order to efficiently manage the network.

In reference to claim 4, Hoyer et al. discloses the client management data is collected at a first time interval (see column 10, lines 33-36).

Art Unit: 2153

In reference to claim 5, Hoyer et al. discloses the selected time interval is at least twice as long as the first time interval (see column 10, lines 33-36; Note that the interval could be set to any range such as twice as long as the first time interval.).

In considering claim 6, Hoyer et al. discloses that the client management data is stored in one or more tables in the cache (see column 6, lines 62-67 and column 7, lines 1-2; Note that it is understood that cache contains tables to store the data.).

In considering claim 7, Hoyer et al. discloses that the client management data is stored in one or more allocated portions of memory (see column 6, lines 62-67 and column 7, lines 1-2).

In considering claim 9, Hoyer et al. discloses a computer system having a processor, a memory, and an operating environment (see column 4, lines 7-11), the system operable to execute the following steps:

- collecting client management data (see column 10, lines 53-55); and
- storing the client management data in a cache for a selected time interval (see column 6, lines 62-67 and column 7, lines 1-2).

However, Hoyer et al. fails to disclose the computer system operable to execute the following:

- averaging the client management data over the selected time interval; and
- transmitting the averaged data to the central collection location.

Nonetheless these, these features are well known in the art and would have been an obvious modification to the computer system disclosed by Hoyer et al., as evidenced by Creemer.

In an analogous art, Creemer discloses a computer system having a processor, a memory, and an operating environment (see column 3, line 22; Note that it is known that a computer

Art Unit: 2153

system includes a processor, a memory and an operating environment), the computer system operable to execute the following steps:

averaging the client management data over the selected time interval (see column 5, lines 59-61); and

transmitting the averaged data to the central collection location (see column 3, lines 2-3;

Note that the mail server is the central collection location.).

Given the teaching of Creemer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying the computer system of Hoyer et al. by employing the well known or conventional features of averaging data over a time interval and transmitting the data to a central location, such as disclosed by Creemer, in order to obtain a prediction as to future performance of the system.

As per claims 10, 11, 15 and 16, Hoyer et al. discloses a computer-readable medium having computer executable components and modules comprising:

a client collection component and means for collecting client management data (see column 10, lines 53-55); and

a client caching component and means for storing the client management data for a selected time interval (see column 6, lines 62-67 and column 7, lines 1-2).

However, Hoyer et al. fails to disclose a computer-readable medium having computer executable components and modules comprising:

an averaging component and means for averaging the client management data over the selected time interval; and

Art Unit: 2153

a transmission component and means for transmitting the averaged data to the central collection location.

Nonetheless these, these features are well known in the art and would have been an obvious modification to the system disclosed by Hoyer et al., as evidenced by Creemer.

In an analogous art, Creemer discloses a computer-readable medium having computer executable components and modules comprising:

an averaging component and means for averaging the client management data over the selected time interval (see column 5, lines 59-61); and

a transmission component and means for transmitting the averaged data to the central collection location (see column 3, lines 2-3; Note that the mail server is the central collection location.).

Given the teaching of Creemer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system of Hoyer et al. by employing the well known or conventional features of averaging data over a time interval and transmitting the data to a central location, such as disclosed by Creemer, in order to obtain a prediction as to future performance of the system.

As per claims 12, 13, 17 and 18 Hoyer et al. discloses a computer-readable medium wherein:

the transmission component and means transmits raw client management data upon occurrence of an event (see column 2, lines 3-6); and

the event is exceeding of one or more performance thresholds (see column 1, lines 56-58).

Art Unit: 2153

As per claim 14, Hoyer et al. fails to disclose a computer readable medium having stored thereon a data structure comprising a data field containing averaged client management data for collecting performance monitoring data into capacity planning data. Nonetheless these, these features are well known in the art and would have been an obvious modification to the system disclosed by Hoyer et al., as evidenced by Creemer.

In an analogous art, Creemer discloses a computer-readable medium having stored thereon a data structure comprising a data field containing averaged client management data for collecting performance monitoring data into capacity planning data (see column 5, lines 59-61). Given the teaching of Creemer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Hoyer et al. by employing the well known or conventional features of averaged client management data, such as disclosed by Creemer, in order to obtain a prediction as to future performance of the system.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,905,868 to Baghai et al.

U.S. Patent No. 5,974,457 to Waclawsky et al.

U.S. Patent No. 6,421,719 to Lewis et al.

U.S. Patent No. 6,209,033 to Datta et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mareisha N. Winters whose telephone number is (703) 305-7838. The examiner can normally be reached on M-F 8:00am - 5:00pm.

Art Unit: 2153

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3900.

mnw
mnw

December 30, 2002


MOUSTAFA M. MEKY
PRIMARY EXAMINER